IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3213 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HAROOBHAI MEHTA

Versus

UNION OF INDIA

Appearance:

MR KETAN A DAVE for Petitioner

MS.P.J.Dawawala for Respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 05/05/2000

ORAL JUDGEMENT

1. Petitioner is a senior advocate practicing in Gujarat High Court. He has also stated that he is ex Member of Parliament and has worked as senior Central Government Standing Counsel for several years. He is a subscriber of telephone connection No.7540889 and certain other telephone connections also which are installed at

his residence, office and the High Court Chamber. The telephone connection at his residence 51/304, Vijaynagar Flats, Naranpura bears No.7472573 and during the period of his membership of Parliament (1984-89) this connection was converted as service connection allotted to a member of Parliament. The petitioner has submitted that respondent No.3 issued a letter dt.4.9.98 to the petitioner as per the directions given by the Hon'ble High Court of Bombay in Petition No.902/97 and instructions issued from Liaison Officer (Phones), New Delhi for realisation of outstanding telephone dues from M.Ps./Ex.M.Ps. for the telephone service used by them in private capacity. According to the contents of this letter as per office record of the Telephone Department, the amounts as under were outstanding against the petitioner for the period of use of the telephone by him in his private capacity.

Telephone No.6013012 at New Delhi - Rs.17,503/-
Telephone No.427258 (Ahmedabad) - Rs.6,879/-

2. Thus the total amount is Rs.24,832/-. Alongwith this notice, a demand note for payment of arrears in respect of telephone bills of New Delhi Telephone No.6013012 was also enclosed. The petitioner sent a reply dt.11.9.98, the copy of which has been enclosed herewith this petition as Annexure'B'. It was contended in the said reply dt.1.9.98 that so far as the amount of Rs.17,503/- is concerned, the same was deposited on or about 5.1.96 by cheque No.179451 drawn in favour of R.B.I. A/c. Ahmedabad Telecom District and the said amount has been realised from the petitioner's bank account and this fact is also reflected in the Bank Statement of the petitioner. It is stated that this amount was paid against the bill for telephone No.3013012 at New Delhi as a Member of Parliament and not the telephone No.6013012 as described by the letter dt.4.9.98.

3. With regard to the amount of the second item i.e. Rs.6879/- it is stated that this amount was due for the year 1994 in respect of telephone No.427258. This telephone connection was alloted to the petitioner at the relevant time in his capacity as a senior central Government Standing Counsel and the said Telephone connection was a service connection and, therefore,the question of unpaid bills regarding the said connection was required to be verified. The petitioner has stated that he had requested the respondent authority to furnish the copies of the bills, which according to the Department remained unpaid so as to enable the petitioner

to check up whether the same is already paid or not. It is stated that despite the reply dt.11.9.98, as aforesaid, the petitioner's telephone connection No.7540889 was disconnected and, therefore, a letter dt.11.9.98 was also sent by the petitioner to the Chief General Manager (Principal General Manager), Ahmedabad Telecom District. In this matter Petition No.7791/98 was also filed challenging the legality of the demand notice dt.4.9.98 and in this petition an order was passed on 30.9.98 requiring the respondents to re-connect the telephone connection of the petitioner within a period of 24 hours and accordingly telephone connection was restored. Thereafter, during the pendency of the petition No.7791/98 the Accounts Officer, T.R.III (West) Ahmedabad Telecom District addressed a letter dt.7.7.99 and furnished the copies of duplicate bills dt.25.12.86, 25.2.87, 1.2.87 and 26.4.87. These bills were pertaining to telephone connection No.7472573. It was the service connection at the relevant time. The petitioner was, therefore, entitled to claim several free calls and it is stated that in these duplicate bills no details has been given except the total amount. The petitioner then requested the authorities to furnish a detailed break-up but the petitioner submits that the details were not furnished despite repeated requests. The petitioner had also sent a letter dt.17.7.99 to the concerned Accounts Officer of Ahmedabad Telecom District. When the aforesaid writ petition No.7791/98 came up before the court, the Court did not feel inclined to go ahead with the petition as the same had not been filed in the name of the subscriber but was filed by an office employee, but the Court did observe that it would be open to file fresh petition in the name of the original subscriber and,therefore, the petition was sought to be dismissed as withdrawn and was dismissed as such with liberty to the subscriber to file fresh writ petition.

4. In this petition, the petitioner has stated that the Department has not yet disconnected any telephone connection of the petitioner after the High Court's order, but he apprehends that the respondent authority is likely to disconnect the telephone connections for non payment of the demand mentioned in the impugned demand notice dt.4.9.98 and, therefore, the respondents be restrained from taking any action pursuant to the demand notice dt.4.9.98.

5. In response to the rule issued by this court, Ms.P.J.Dawawala has appeared on behalf of the respondents and she has stated before this court that according to her instructions, the detailed break-up of the bills, as

required by the petitioner, shall be furnished to the petitioner within a period of three months from the date the certified copy of this order is produced before the concerned authority and till then none of the telephone connections held in the name of the petitioner shall be disconnected and no action shall be taken until the bills are furnished. If such bills are furnished to the petitioner and any dispute still survives between the parties and the petitioner still feels aggrieved, he will be at liberty to file a fresh petition agitating the grievances.

6. At this stage, the learned counsel for the petitioner submits that in view of the statements made by Ms.Dawawala, he seeks to withdraw this petition. The same is hereby dismissed as withdrawn, with liberty as aforesaid. Rule is hereby discharged. No order as to costs. Direct service is permitted.

(M.R.Calla,J)